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U.S. SENATE

RECEIVED
FEDERAL ELECTION
COMMISSION

2009 DEC -9 AM 9:33

OFFICE OF GENERAL
COUNSEL

December 3, 2009

Re: MUR 6229

Mr. Jeff S. Jordan
Supervisory Attorney
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Mr. Jordan:

In my capacity as Treasurer of the Patrick Hughes for Senate Committee, I am providing this response to the Complaint (MUR 6229) filed On October 27, 2009 by Louis G. Atsaves. I received your cover letter of November 18, 2009 on December 1, 2009. For the record, I would point out to the Federal Election Commission that the Complainant, Mr. Atsaves, is well-known in Illinois as a supporter of Congressman Mark Kirk, who is a candidate in the Republican primary election in 2010.

MUR 6229 and the Complaint involve a printed flyer that was prepared for the Patrick Hughes for Senate Committee. Approximately 10,000 copies of the flyer were printed quite early in the campaign. All copies of the flyer were distributed by hand, person-to-person, and none were mailed or disseminated electronically. The flyer was distributed by the Patrick Hughes for Senate Committee at campaign events to campaign supporters. From the text of the flyer and the methods employed for its distribution, no confusion exists that the flyer was anything other than a public communication prepared by the Patrick Hughes for Senate Committee for person-to-person distribution by that committee. The Committee's official name and address were clearly printed on the face of the flyer.

The Regulations of the Federal Election Commission, at 11 C.F.R. 110.11 require that the public communications of a federal candidate

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committee include a disclaimer that the communication was prepared and authorized by that candidate committee. The legislative history underpinning this Regulation makes clear that the intent of Congress in requiring such a disclaimer for a candidate committee's public communications was to preclude confusion in the minds of the public as to the actual sponsor of the communication and thus to assure the public that the candidate committee referenced in the communication knew of and was responsible for the content of the communication. The Congressional intent underpinning 11 C.F.R. 110.11 was clearly and inarguably present in the actual text of the communication at issue in MUR 6229. Any fair reading of the text of this flyer leads to no other conclusion than that the flyer was authorized and paid for by the Patrick Hughes for Senate Committee.

However, I do acknowledge that the disclaimers required by 11 C.F.R. 110.11 were not included on the face of this flyer. The Committee's failure to include the required disclaimers was inadvertent and unintended. I deeply regret this error. Following the initial distribution of this flyer, the Committee became aware that the required disclaimers were missing from the flyer and the Committee thereafter terminated further distribution of this flyer. However, in no instance has the Committee been confronted by someone in the public who expressed any confusion as to the sponsor of the flyer. In fact, other than Mr. Atsaves,¹ it does not appear that anyone in the State of Illinois who received this flyer was confused as to the actual sponsorship of the flyer.

Since this particular flyer was printed no other public communication distributed by the Patrick Hughes for Senate Committee has failed to contain the disclaimers required by 11 C.F.R. 110.11. The failure of our committee to include the required disclaimers in the flyer at issue here was inadvertent, unintended, and a singular event that has not and will not be repeated in the future. For these reasons, I respectfully ask the Federal Election Commission to dismiss this Complaint and take no further

¹ Below is one of many blogs and comments of Mr. Atsaves which denotes the likely motivation for the subject complaint:

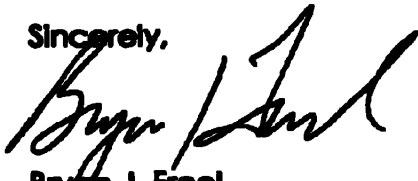
"12. Louis G. Atsaves | 07.24.09

I'm a Republican in Illinois and a Mark Kirk supporter. He is my current 10th District Congressman and lives just a few blocks away from me. He will be a terrific candidate for Senator and will be a terrific Senator." Response from Mr. Atsaves to an article on THE CHRISTIAN SCIENCE MONITOR, Kirk's Senate Bid a Crusade Against Illinois Corruption, originally posted on July 21, 2009.

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action on this matter. The Patrick Hughes for Senate Committee is chastened by this mistake and the committee's staff has been admonished about the seriousness of its obligations under 11 C.F.R. 110.10.

Sincerely,



Bryan J. Freel
Treasurer

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